

UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF CALIFORNIA

SENECA SMITH,

Plaintiff,

vs.

AUTOZONE, INC., and DOES 1-100,

Defendants.

Case No.: 12-cv-06438-YGR

**ORDER SETTING EVIDENTIARY HEARING;  
VACATING ORDER TO SHOW CAUSE  
HEARING; AND CONTINUING HEARING ON  
MOTION FOR SUMMARY JUDGMENT,  
PARTIAL SUMMARY JUDGMENT, AND  
DISCOVERY SANCTION**

TO PLAINTIFF SENECA SMITH, DEFENDANT AUTOZONE, INC. AND COUNSEL, AND  
PLAINTIFF'S FORMER ATTORNEYS LAWRENCE A. BOHM AND BIANCA N. SAAD:

On December 3, 2013, the Court issued an Order to Show Cause Why This Action Should Not Be Dismissed for Failure to Prosecute and Failure to Comply with This Court's Orders ("Order to Show Cause"). (Dkt. No. 37.) Plaintiff Seneca Smith timely filed a written response as required by the Order to Show Cause. (Dkt. No. 38.) In his response, Mr. Smith states that he was unaware that his former attorneys, Lawrence Bohm and Bianca Saad, reached a settlement with Defendant AutoZone, Inc. and that he never agreed to any settlement.

In light of Mr. Smith's intent to prosecute this action and the representations made in his response, the Court hereby **SETS** an evidentiary hearing on AutoZone's pending Motion to Enforce the Settlement Agreement (Dkt. No. 25) on **January 10, 2014 at 2:00 p.m.** Mr. Smith's personal appearance is required at this January 10 hearing, as he will be required to provide testimony on the proffers he has made to the Court. Failure to appear in person may result in dismissal of this action with prejudice. In addition, the Court **ORDERS** that Plaintiff's former attorneys, Lawrence Bohm


1 and Bianca Saad, personally appear at the hearing to give testimony on this matter given their  
2 contradictory declarations. Telephonic appearances will not be permitted.

3 Counsel for Defendant is **ORDERED** bring a copy of the video of the fight at issue to be  
4 played during the evidentiary hearing. The Court requests that the video be provided on a DVD or  
5 CD.

6 The Order to Show Cause hearing scheduled for December 17, 2013 is hereby **VACATED**.  
7 The hearing scheduled for January 7, 2014 on AutoZone's Motion for Summary Judgment, Partial  
8 Summary Judgment, and Discovery Sanction shall be taken **OFF CALENDAR** pending resolution of  
9 the Motion to Enforce the Settlement Agreement.

10 **IT IS SO ORDERED.**

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12 Dated: December 13, 2013

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14 YVONNE GONZALEZ ROGERS  
15 UNITED STATES DISTRICT COURT JUDGE  
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